

Notice

CC-2011-002

October 15, 2010

Frequently Asked Questions
Regarding EFiling in the U.S. Tax

Subject: Court

Cancel Date: October 15, 2011

This Notice provides answers to frequently asked questions regarding eFiling documents in the U.S. Tax Court. The notice supplements the information provided in Chief Counsel Notices 2010-013, 2010-014 and 2010-015.

Question 1: What is the email address from which the Tax Court sends rejection notices?

Answer 1: Doc-Service@ustaxcourt.gov

Question 2: I used eFiling to transmit an answer to the Tax Court and the court's website shows that the answer has been filed, but I don't appear as counsel of record on the case index. The court's eAccess system will not allow me to file additional documents in the case. What should I do?

Answer 2: Send the following information to [eFiling.Questions@irscounsel.treas.gov](mailto:EFiling.Questions@irscounsel.treas.gov): case name, docket number, and the name and bar numbers of the attorneys who should appear as counsel of record. We will contact the court to request that the attorneys be added as counsel of record.

We have been informed that there is a pending programming change at the court that will require the court's staff to enter the attorney's name as counsel of record as an integral part of the procedure for processing an answer or other initial submission for filing. Once that programming change is completed, this problem should no longer occur.

Question 3: I eFiled an answer several days ago and the court still has not filed it. The document hasn't been rejected by the court either.

Answer 3: The court seems to be taking several days to process eFiled documents. The document will appear on the list of "My Pending" documents on the court's website until the court acts on the document. The court takes action with respect to documents throughout the day, removing them from the "My Pending" list. The court posts all documents newly approved for filing at 5 pm ET each day. This means there will likely be a gap of several hours between when the document disappears from the "My Pending" list and when the Case Index page shows that it

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has been accepted for filing. Please notify us through the eFiling Questions mailbox if a document disappears from the "My Pending" list and does not appear as filed on the Case Index page after 5 pm ET that day.

Question 4: I must file a notice of filing of petition and right to intervene for the nonrequesting spouse in a section 6015 case. The Tax Court's Rules require the notice to be filed within 60 days of the petition, the same deadline as for the answer. I eFiled the answer several days ago, but I still don't appear as counsel of record. I can't eFile the notice and day sixty is tomorrow. What should I do?

Answer 4: At present, the court's eAccess system will not allow us to eFile the answer and the notice to the nonrequesting spouse simultaneously. Therefore, in this situation, go ahead and file the notice with the court on paper. Per the court's eFiling announcement, the notice should be accompanied by a "Motion for Exception From eFiling Requirement," stating as grounds that we are unable to eFile the notice because, although an answer has been submitted, our attorney is not yet counsel of record in the case on the court's docket sheet. We hope that the court will improve the timeliness of its processing. Until it does, we should strive to eFile Answers (particularly in section 6015 cases) in advance of the deadline. We have brought this issue to the attention of the court and have been told that they are working to modify the programming to allow the filing of more than a single document (up to three documents) in the initial pleading stage.

Question 5: I also need to file a notice of filing of petition and right to intervene to the nonrequesting spouse. I'm listed as counsel of record, so I can eFile it, but I have a question about the certificates of service. In the paper environment, we would not include a certificate of service to the petitioner on the copy of the notice sent to the nonrequesting spouse (and vice versa). This was because of potential privacy concerns regarding the addresses of the spouses. In the eFiling environment, petitioning spouses who have consented to eService will be able to view the certificates of service to the non-requesting spouses via eAccess because we must include that certificate of service with the document eFiled with the court. Also, if the petitioning spouse has not consented to eService, but the nonpetitioning spouse consents after intervening, the nonpetitioning spouse will be able to view the certificates of service, as well as other documents in the court's file such as the petition, containing the petitioning spouse's address information. How do we protect the spouses' privacy when eFiling?

Answer 5: You should eFile the notice of filing of petition and right to intervene, including a certificate of service for each spouse if the petitioning spouse has not consented to eService. If the petitioning spouse consented to eService, you should only include the certificate of service for the nonrequesting spouse. (The nonrequesting spouse cannot consent to eService before becoming a party to the case). If either spouse wishes to restrict the information made available to the other spouse, they may file a motion for a protective order.

Question 6: I'm planning to file a motion to dismiss for lack of jurisdiction but I don't see it on the list of documents that may be eFiled. Should I file it in paper form?

Answer 6: No. The motion should be eFiled (assuming that the petition in the case was filed on or after July 1, 2010). If you examine the court's list of documents that may be eFiled more closely, you will see that there are several generic categories, such as motion by respondent, request, and notice. If your document falls into one of those categories and is not specifically excluded from eFiling, you should eFile it.

Question 7: I am in the process of filing a Motion To Extend Time To Answer. How should I name this document in the eFile system?

Answer 7: As you know, our Office established an officewide naming convention: [case name - individual last name or corporate keyword][docket number][document title].pdf. In choosing the document title, you can shorten the official title somewhat, but must incorporate enough of it to uniquely identify the document. For your document, we suggest: Smith_1234-56_ Motion_Extend_Time_Answer

Question 8: I've eFiled a document electronically that should not have been filed and needs to be withdrawn – can I do that electronically?

Answer 8: No. The Tax Court's system will not allow you to completely withdraw a document. You can replace it with a corrected version using the resubmission feature, but cannot withdraw it without replacing it. Depending on the facts and circumstances, you may wish to consider filing a motion to withdraw the document.

Question 9: My document is more than 50 pages long. I eFiled it today and I need to send a courtesy copy to the judge according the court's eFiling instructions. Should I just go ahead and mail the copy today?

Answer 9: No. Before the courtesy copy is sent, the document must have been accepted for filing with the court. Once it has been accepted, attach a cover letter including the date of filing to a paper copy of the document and send them to the judge assigned to the case. If no judge has been assigned, send it to the Chief Judge. The courtesy copy should be sent within three days of the date the document was accepted for filing.

Question 10: The petition in my case was filed before July 1, but the amended petition was filed after July 1. Should I eFile the answer?

Answer 10: No. The controlling date is when the original petition was filed. Since that date was prior to July 1, the case is not subject to eFiling.

Question 11: My case is not subject to eFiling, but petitioner's counsel has elected eService. Does that mean I have to eFile or find some other way to electronically serve documents?

Answer 11: No. We are only eFiling in those cases with petitions filed on or after July 1, 2010. The fact that petitioner's counsel has elected eService does not affect whether we eFile in the case. As long as we are filing paper documents with the court, we may serve documents in paper as well.

Question 12: I'm trying to file an Answer to Amended Petition, but I don't see that as one of the documents listed for eFiling. What should I do?

Answer 12: Use the general Answer category to eFile the document. Whenever you have a document that is not specifically listed, choose the most applicable general category of document, such as an answer, motion, etc.

Question 13: How do I eFile a motion to consolidate in a group of cases? Do I eFile it in only the lead (earliest) docket, or can I somehow eFile the motion in all of the cases in the group? What if

the cases in the proposed group consist of both pre-July 1 and post-July 1 cases? Must I eFile the motion to consolidate?

Answer 13: Prepare the motion to consolidate as usual, listing all of the case captions and docket numbers in numerical order beginning with the earliest docket, and then eFile the motion in the earliest (lead) docket. When the court's staff retrieves the document for processing, it will proceed to file the document in the remaining dockets in the proposed group. If any of the petitioners or representatives in the group require paper service, you will need to attach the appropriate certificate of service for that party or representative to the motion to consolidate. If any of the cases in the proposed consolidated group were filed after July 1, 2010, the motion to consolidate must be eFiled, since eFiling would be mandatory for that case, even if the lead (earliest) case in the group is a pre-July 1 case. This will mean that all documents in the group filed thereafter must be eFiled, since once a document is eFiled in a case, all future documents in that case must be eFiled, even if the case was docketed before July 1st.

Question 14: I need to eFile an answer together with a motion for leave to file it out of time in a post-July 1 case. How do I electronically lodge the answer with the motion for leave, since the system will only allow me to electronically submit a single initial document in a case?

Answer 14: You may use a single pdf file that includes the motion for leave to file the answer out of time followed by the answer that is being lodged. The answer should not be marked as an exhibit to the motion, but simply follow it in the same pdf file. Once the court modifies its programming to allow the submission of multiple initial documents in a case as discussed above, you will be permitted to lodge the answer separately from the motion when eFiling a motion for leave.

Questions regarding this notice or regarding other eFiling issues may be submitted to eFiling.Questions@irscounsel.treas.gov. You may also contact George Bowden at 202-622-3400, Richard Goldman at 202-622-7950, or Peter Reilly at 202-622-7071.

/s/
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(Procedure and Administration)